

C.C.R.B CASE CLOSING FORM

Investigator assigned:		Team:	CCRB#:	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourtesy
Ludwig		7	9900671	<input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Date of incident:	Time of incident:	Location of incident:	Pct. of occurrence:	Date S.O.L. Expires:
2/8/99	12:30 PM	East 36th Street and 3rd Avenue, Manhattan	014	8/8/00
Date reported:	Time reported:	To whom/where/how reported:		
2/11/99	1:03 PM	To CCRB by telephone		
Complainant:		Home address:		
§ 87(2)(b)		§ 87(2)(b)		
Victim(s):		Home address:		
Same as above				
Witness(es):		Home address:		
Subject officer(s) (include rank):		Shield:	Tax:	Command:
PO Dennis Morgano PO Joseph Bonner		11589 24686	893417 915329	Midtown South (14th Precinct) Midtown South (14th Precinct)
Witness officer(s) (include rank):		Shield:	Tax:	Command:
Allegation(s) by letter:		Recommendation(s):		
A. PO Bonner abused his authority when he detained § 87(2)(b) in violation of PG 116-33.		A. § 87(2)(g)		
B. PO Morgano abused his authority when he detained § 87(2)(b) in violation of PG 116-33.		B. § 87(2)(g)		
C. PO Morgano used excessive force when he pushed § 87(2)(b) in violation of PG 104-01.		C. § 87(2)(g)		
D. PO Bonner used excessive force when he grabbed § 87(2)(b) arm and pushed her in violation of PG 104-01.		D. § 87(2)(g)		
E. PO Bonner used excessive force when he pushed § 87(2)(b) at the 33 rd Precinct station house in violation of PG 104-01.		E. § 87(2)(g)		
F. PO Bonner was discourteous when he told § 87(2)(b) not to be "stupid" in violation of PG 104-01.		F. § 87(2)(g)		

Synopsis

Officers Bonner and Morgano stopped § 87(2)(b) for driving with a broken center break light. The officers checked § 87(2)(b) license on their computer which showed that it had been suspended.

ENCL. 1 2

Officer Bonner arrested § 87(2)(b) and brought her to the 14th Precinct where it was discovered that § 87(2)(b)'s license had been reinstated earlier that day.

Summary of Complaint

§ 87(2)(b) called the CCRB on February 11, 1999 in order to report the incident she is complaining of (see enc. 5a-b). § 87(2)(b) briefly recounted being stopped by PO Bonner and PO Morgano who pulled her over for a broken center break light. § 87(2)(b) stated that the officers used force against her when they arrested her for driving with a suspended license. § 87(2)(b) also stated that PO Bonner told her not to be "stupid" when she asked him what a center break light was (see enc. 6).

§ 87(2)(g)

On February 19, 1999, § 87(2)(b) called the CCRB and stated that on February 8, 1999 at 12:30 AM, she had been driving home from work and was pulled over by PO Bonner and PO Morgano. PO Bonner informed § 87(2)(b) that she had a broken back center break light. § 87(2)(b) did not know what a center break light was and when she repeatedly demanded to know, PO Bonner replied "Don't be stupid," and told § 87(2)(b) to "shut up" repeatedly. PO Bonner took § 87(2)(b)'s license and registration and, after running a computer check at his RMP, told § 87(2)(b) to get out of the car, which she did. § 87(2)(b) explained that she had gotten her previously suspended license renewed that day at the DMV and she had the paperwork to prove it. PO Bonner instructed § 87(2)(b) to go to the back of the car. When § 87(2)(b) questioned that command PO Bonner grabbed § 87(2)(b)'s arm and started pushing her to the back of her car. PO Bonner then grabbed § 87(2)(b)'s left hand and § 87(2)(b) pulled it away. PO Bonner then slammed handcuffs on her left wrist and told § 87(2)(b) she was under arrest. PO Morgano accused § 87(2)(b) of resisting arrest. § 87(2)(b) argued about the righteousness of the arrest and PO Bonner told her to "shut up" again. PO Morgano pushed § 87(2)(b)'s right shoulder and pulled her right hand behind her back so that her right hand could get cuffed.

On February 24th, 1999, during a telephone conversation, § 87(2)(b) stated after she was handcuffed, PO Morgano pushed her on her right shoulder towards the car. PO Morgano asked § 87(2)(b) if she was resisting her arrest. § 87(2)(b) stated that she found her arrest to be groundless and PO Bonner told § 87(2)(b) to "shut up" again and placed her in the RMP.

On February 24th § 87(2)(b) stated that as she was getting into the RMP, PO Morgano pushed her head down. § 87(2)(b) argued with officers all the way to the precinct. At the precinct § 87(2)(b) asked to speak to the Desk Sergeant and one of the officers (it is not clear whom) told her to "shut up." PO Bonner looked through § 87(2)(b)'s pocket book. § 87(2)(b) continued to argue with officers and demanded a phone call which PO Bonner denied her, again telling her to "shut up" while doing so. When they got to the back room, PO Bonner told § 87(2)(b) to sit in a chair. She was about to do so when PO Bonner put his right hand on § 87(2)(b)'s left shoulder and pushed her down into the chair. PO Bonner uncuffed § 87(2)(b)'s hands from behind her back and recuffed § 87(2)(b)'s left hand to a bar behind the chair. PO Bonner put § 87(2)(b)'s pocket book on a table in the middle of the room and left.

About five minutes later, Lt. Malkin, the desk officer, came into the room and asked § 87(2)(b) to explain what had happened. Lt. Malkin asked about the letter from the DMV and § 87(2)(b) found it in her pocket book. Lt. Malkin read the letter and walked out. After a few minutes, PO Morgano came into the room, told § 87(2)(b) she had been right all along, released her handcuffs and brought her out to the front. Lt. Malkin yelled to § 87(2)(b) "Lady, go sit down." Ms. Durkin sat down. PO Bonner came

over to § 87(2)(b) and apologized to her. He said they had used reasonable force and prudent judgement. § 87(2)(b) argued about the incident and whether or not she has a back center break light for about ten to fifteen minutes. PO Bonner and PO Morgano drove § 87(2)(b) back to her car.

§ 87(2)(g) On April 20th, 1999, § 87(2)

§ 87(2)(b) was interviewed at the CCRB. § 87(2)(g)

§ 87(2)(b) stated that the car she was driving belonged to her mother. § 87(2)(b) also stated that in the initial phase of the stop, she tried to explain to PO Bonner that her license had been reinstated that day but that PO Bonner cut her off by telling her to "shut up." § 87(2)(b) did not mention that PO Bonner called her "stupid" nor did she mention that PO Morgano pushed her. Lastly, she did not mention that PO Bonner pushed her into a chair in the back room of the station house.

On June 17, 1999, § 87(2)(b) was contacted by telephone. She stated that on the night of the incident she was driving a 1990 Ford Aero Star license plate number § 87(2)(b)

Results of Investigation

The computerized Booking and Arrest Disposition System (BADS) was checked and the report of Mrs. § 87(2)(b) voided arrest was found (see enc. 16a-b). The report stated that at the time of § 87(2)(b) arrest, she was observed driving with a defective brake light. The officers performed a computer check of § 87(2)(b) license which came up as being suspended. At the 14th Precinct station house, § 87(2)(b) license was found to be reinstated and the arrest was voided.

On June 8, 1999 PO Morgano was interviewed at the CCRB (see enc. 13a-b). He stated that on February 9, 1999, he was assigned to patrol sectors A and B with PO Bonner. At 12:25 AM, he and PO Bonner noticed a mini-van with a back center break light that was out. PO Morgano knew that the light was out because he saw the car break several times and noted that the side break lights went on but the center light, which he could clearly see, did not. The officers ran the mini-van's license plate number, on the computer in their RMP. This query showed that the car's registered owner had a suspended driver's license. The officers then pulled the mini-van over at East 36th Street and 3rd Avenue.

PO Morgano walked to the passenger's side of the van and PO Bonner approached the driver's side and spoke to the driver, § 87(2)(b) admitted to PO Bonner that she had had problems with her license, knew that it was suspended and stated that she did not have any documentation from the Motor Vehicles Department stating that it was all right for her to drive. The officers went to their RMP and checked § 87(2)(b) driver's license on the computer, which revealed that it had been suspended.

The officers returned to § 87(2)(b) and PO Bonner asked § 87(2)(b) to get out of her car which she did willingly. The officers explained to § 87(2)(b) that her license was suspended and she was not supposed to be driving. § 87(2)(b) said she did not understand because she had already fixed the problem. PO Morgano explained to § 87(2)(b) that they had to arrest her and bring her back to the precinct. § 87(2)(b) was brought to the back of her car. Officer Bonner started to handcuff § 87(2)(b) who said that she did not understand why she had to be handcuffed and backed away a bit. PO Morgano explained that for his and her safety, and because of department policy, she had to be handcuffed. § 87(2)(b) being in a reasonable and logical state, accepted this explanation. PO Bonner handcuffed § 87(2)(b) and she was seated in the RMP.

The officers got into the car and § 87(2)(b) mentioned that she had paperwork in her purse stating that her license had been reinstated. PO Morgano got out of the RMP, went to § 87(2)(b) car and parked it legally. He returned to the RMP with her pocket book and explained that he could not go

through her pocket book at the moment but would do so at the precinct. On the way to the precinct PO Morgano explained to § 87(2)(b) exactly what would happen at the precinct. § 87(2)(b) was understanding, she did not cry, yell, or show any sign that she was upset.

At the 14th Precinct station house, § 87(2)(b) was brought before Lt. Malkin, the desk officer, and some paperwork was completed. Instead of being brought to the cells in back, § 87(2)(b) was seated on benches near the desk and unhandcuffed. § 87(2)(b) pocket book was searched and a letter from the DMV was found stating that her license had been reinstated that day. The desk officer instructed officers Bonner and Morgano to void § 87(2)(b) arrest. The officers then explained to § 87(2)(b) why they had arrested her and that they would void her arrest. § 87(2)(b) seemed to understand and the officers drove her back to her car. PO Morgano stated that § 87(2)(b) remained calm throughout the incident because he was constantly explaining to her what was happening and what would happen next.

Also on June 8, 1999, PO Bonner was interviewed at the CCRB (see enc. 15a-b). § 87(2)(g)

§ 87(2)(b) PO Bonner stated that § 87(2)(b) was frightened when PO Morgano approached the passenger's side and shined his flashlight into the car. PO Bonner explained to § 87(2)(b) that they had shown the light for their safety and in order to discover how many people were in the vehicle.

After checking her license, PO Bonner handcuffed § 87(2)(b) and informed her that he was arresting her for driving with a suspended license. § 87(2)(b) became visibly upset and told PO Bonner that he did not have the right to arrest her. § 87(2)(b) was also upset that she was being handcuffed. When PO Bonner placed § 87(2)(b) in the RMP, she wanted to talk to PO Bonner who told her to wait. PO Bonner got into the front of the RMP and explained that to § 87(2)(b) that everybody had to be treated the same way and that department procedure required him to handcuff her. He then showed § 87(2)(b) through a hole in the cage that separates the front from the back, her computerized DMV record, which stated that her license was suspended. At the time of the interview, PO Bonner stated that the reason he did not give § 87(2)(b) a ticket for the broken center break light was because he felt she had been through enough hassle as it was.

A query of the Department of Motor Vehicle records showed that the license plate § 87(2)(b) was assigned to a 1990 black Ford registered in § 87(2)(b) name (see enc. 20).

A call was placed to the Ford Motor Company. A Ford representative consulted the 1990 Aero Star's User's Manual and could find nothing to suggest that that model was equipped with a center break light.

Pep Boys, the auto supply shop, was contacted. A Pep Boy's representative stated that he had no listing for a replacement bulb on a 1990 Ford Aero Star.

A field visit was conducted to § 87(2)(b) house (see enc. 21a-b). Photographs were taken of § 87(2)(b)'s car which did not have a center break light.

A call was placed to the Governmental Affairs Department at the American Auto Association. A representative reviewed the New York State Vehicle and Traffic Law and could find nothing stating that a center break light was required.

A call was placed to DMV's Consumer Services Station. A representative stated that the inspection regulations requiring a high mounted stop light for 1987 and newer passenger cars do not apply to mini-vans because they are not considered to be cars.

NYPD Highway Patrol and the 14th Precinct were contacted. Officers from both commands stated that summonses for defective center break lights were issued under section 375.40 b of the New York State Vehicle and Traffic Law.

Section 374.40 b of New York State Vehicle and Traffic Law was consulted (see enc. 2). Nothing

was found stating that vehicles were required to have a center break light.

Conclusions and Recommendations

Allegation A-B; PO Bonner and PO Morgano abused their authority when they detained § 87(2)(b)

PO Morgano and PO Bonner both stated that their attention was drawn to § 87(2)(b) mini-van because her center break light was not working properly. Although all passenger cars have a center break light, queries with an auto supplier, the car's manufacturer and a field visit indicate that § 87(2)(b) mini-van does not have a center break light. The DMV's requirement that all 1987 or newer passenger cars have a center break light does not apply to mini-vans because they are not considered to be passenger cars. Queries to the police department's highway patrol and to the 14th Precinct revealed that center break light summonses are issued under section 375.40b of the New York State Vehicle and Traffic Law which, in fact, does not address a center break light. PO Bonner and PO Morgano spotted § 87(2)(b) at 12:30 PM.
§ 87(2)(g)

Allegations C-E; PO Morgano pushed § 87(2)(b) PO Bonner grabbed § 87(2)(b) wrist and pushed her at the arrest location and pushed her into a chair at the 14th Precinct Station House.

§ 87(2)(b) stated that PO Bonner pushed her after she questioned a verbal command to step to the back of the car and that he grabbed her wrist after she had pulled it away and in order to handcuff her. Additionally, PO Bonner pushed § 87(2)(b) into a chair at the station house after giving her a verbal command to sit and by placing his hand on her shoulder. The force used by PO Morgano included a push on § 87(2)(b) right shoulder in order to get her hand behind her back and handcuff her, and a push towards the RMP. § 87(2)(g)

Allegation F; PO Bonner told § 87(2)(b) not to be "Stupid".

§ 87(2)(g)

§ 87(2)(b)

made mention of it

February 11, 1999 and on February 19, 1999 but omitted it on April 20, 1999. § 87(2)(g)

Investigator:



Date:

7-12-99

Supervisor:



Date:

7/12/99

Reviewed
by:



Date:

7/12/99

Reviewed
by:



Date:
